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Schuilenburg, M.B.

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It's the protocol, stupid!

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Marc Schuilenburg

The film *Minority Report* (2002) describes a form of law enforcement that renders a perfect image of the essence of present-day security politics in our cities. The movie is based on Philip K. Dick's short story of the same name and takes place in Washington D.C. in the year 2054. The premise of the story is that in the last six years no murders have been committed in this city. The police have apprehended all murderers before they actually committed a crime. They were able to do this by using three 'pre-cogs' who possess a special power that enables them to see future murders. It is no coincidence the 'pre-cogs' were named after three famous crime fiction writers: Agatha Christie, Dashiell Hammett and Arthur Conan Doyle. The predictions of the 'pre-cogs' are produced during their dreams. The results of these predictions arrive in the shape of two shiny wooden balls. On each ball a name is carved: one name belongs to the victim and the other to the perpetrator. The moment the balls appear the agents of the PreCrime Unit must follow several protocols, the most important of these being that the name of the victim and perpetrator is read out to two independent witnesses. These two witnesses, Chief Justice Pollard and Doctor Katharine James, observe the whole process on television screens. Their role is to ensure that the names read out to them are the same as those on the two balls. Once this has been confirmed, the agents will head to the scene of the crime to prevent the murder taking place and arrest the future perpetrator.

An intrinsic part of this system is a general assumption with respect to the behaviour of the future perpetrators. This assumption can be seen as an expression of a mechanical and linear view of their actions. In this line of thought the perpetrators have no other option than to commit the crime or to use violence. What's more, their actions are causally determined. Future behaviour is already determined as a realisation of a given possibility. This means that the idea of the possible is related to a pre-formed element, from which their actions are supposed to emerge. In this possibility everything has been pre-determined.

In which aspect are the themes of *Minority Report* relevant for an analysis of the threat of violence in the public space of the polis? The film is in fact much closer to our own reality than we at first might think. We have only to refer to the report *Spelverdeler in de opsporing* (2004) of the Dutch police in which they use the movie *Minority Report* to make a plea for the 'endless

possibilities of technology'. The police claim that the identification of persons with the use of new technologies as automatic detection and pattern-recognition cameras is superior to testimonies by witnesses or suspects. These technical devices identify certain people as possible perpetrators before they have actually committed an offence. Therefore, the physical observation of persons in the public space of our cities must be expanded with video surveillance able to recognise a face for its potential criminality. Speech, gestures and facial expressions are indicators for the use of violence and other criminal behaviour. Through these new techniques disturbances of the public peace can be anticipated. In terms of the police: 'signalled persons are "neutralised".'

The dynamics of the public space

The movie *Minority Report* raises several issues. How can you convict a person for an act he has not yet committed? How do you prevent false predictions being made? In order to answer these questions we need to look more closely at the theme of the film. The key issue in the movie is the relationship between politics and life. We see the same theme recurring in the work of the Italian philosopher Giorgio Agamben. Which insights can Agamben's views on this subject offer us? Agamben concludes that the politicisation of life can be seen as the main characteristic of our time. The politicisation of life marks a transformation of different classical political philosophical categories. Agamben connects this relationship between politics and life to a state of exception. The state of exception can be described as a suspension of the juridical order in its totality. This is a condition in which the law has no content or substantive meaning, it is 'in force without significance.' The outcome is a situation where there is no distinction between rule and exception. The exception has become the rule. In *State of Exception* (2005) he writes that the structure of the exception 'has continued to function almost without interruption from World War One, through fascism and National Socialism, and up to our own time'. In a state of exception life is stripped of its specific form or quality. The life of a human being is reduced to a life not worth living. To understand the consequences we can look at the position of the prisoners in Guantanamo Bay or the destiny of the illegal immigrants (*sans papiers*) in the cities of Europe and the United States. These groups are located outside the normal judicial order, without any rights, at the mercy of authorities they get in touch with: police, jailers, private security, etc. Back to *Minority Report*. In this film the relationship between politics and life takes shape in a law enforcement that wants to prevent any form of violence or upheaval in the city. The corresponding society would be characterized as a culture of control that expresses the fear in our society and the related need

of absolute security. Is Agamben's analysis adequate to be able to understand the law enforcement in the polis? We can illustrate his point of view by the use of security techniques such as video surveillance or camera supervision with the intent to prevent violence by identifying 'dangerous' persons. The position I take is that the state of emergency is the expression of the current security politics in the public space. It therefore does not only concern the structure of these politics but also entails a different stance on the relationship between life and politics. What is the relationship between politics and life, considering the latter is something that takes shape in our encounter with aggression detectors and Computerised Face Recognition that are aimed at preventing all violence that could form a threat to security in the public space?

London, Rotterdam, Chicago: a new politics of security?

We are currently surrounded by an aura of safety that is provided by the development of informational technologies. The recognition of facial expressions, and in this case connecting these expressions to future actions, is vital for the functioning of a new security politics in the public space of our cities. Since the early nineties different countries have on a large scale employed detection and pattern recognition cameras. These systems have not only been used to monitor behaviour of individuals in the public space. To a certain extent they also, what the French philosopher Michel Foucault would call, 'govern' our behaviour. In London there are more than a thousand cameras in the Underground-system. The software program Mandrake matches faces with photos of recidivists. Within sixty seconds the faces of 15 million people are compared to each other. In Rotterdam the distance between the town hall and the main train station is covered by a network of cameras. A highly advanced system of video surveillance that Chicago officials plan to install by 2006 will turn the people of that city into the most closely observed in the world. These cameras alert private and public security authorities at the moment that faces are recognised or when facial expressions indicate that violent behaviour is about to take place.

This is also a key theme in the film *Minority Report*. Once the names of the victim and perpetrator are known the main character, John Anderton, played by Tom Cruise, must assemble the images sent by the brains of the 'pre-cogs' to the computer to be able to establish where the crime will take place. In order to make that possible, an integration of information is essential. Tax offices, law enforcers, supermarkets and hospitals exchange data to increase their knowledge of the human body. It is as though the human connection is 'governed' by identity management. In this culture of control the prevention of criminality is not only a task of the government or the police. The law enforcement is decentralized. It has become a broad and shared responsibility

in which other actors are playing an important role. This is made concrete by the use of slogans as 'partnership', public-private cooperation' and 'responsible citizenship'.

The fashion police

We can summarize the results of a culture of control, which is not only characterized by the use of new techniques of video surveillance, but also by severe sentences ('three strikes, you're out') and an expanding prison complex, quite simply. Loosely referring to the *The Spectacle Society* of Guy Debord we can say about the public space: 'what appears is safe, what is safe appears.' Is the control of our life complete? In an answer on the question how our life is governed by the different effects of relations of power, Michel Foucault concludes that power cannot be thought of without resistance. Power and resistance are co-existent. Power creates resistance. Without relations of power, there are no relations of resistance. We can grasp this relation by the international phenomenon of identity fraud. In the United States each year roughly 700.000 cases of identity fraud are reported which makes it the fastest growing crime in the country. Does this mean that the mapping of the lives of citizens by the combination of flows of information creates its own resistance? Many scientists are wary about the high expectations of the police as regards the results of video surveillance. First of all, a more analytic capacity is needed to evaluate all the information and secondly there are some technical problems in areas such as facial recognition and the automatic detection of violence. Some specific characteristics, for example the distance between the eyes, between the ear and the eyes and between the eyes and the corners of the mouth, can be used for facial recognition, but because of the many variations of our facial expressions and body language it is not possible to establish a direct relationship between possible and actual behaviour. Moreover, not enough research has been done to conclude that violence will decrease once camera supervision has been implemented. A possible hypothesis is that a decrease of the total amount of violence implies an increase of the intensity of the practiced violence.

However we should not overlook the fact that the use of technological media in public spaces has had real results. This can be explained by looking more closely at the normative character of the use of automatic detection and pattern recognition cameras. They create an environment with its own sense of normality or logic. The expression 'The medium is the message' of Marshall McLuhan makes this clear. The paralysing effects become concrete if we take a close look at a trivial lawsuit. Video surveillance creates an environment in which it is forbidden to wear sunglasses, baseball caps or headgear. This mandatory dress code does not stem from existing laws. Nor has it anything

to do with fashion-based arguments. What happened? Automatic facial systems such as Computerized Face Recognition will not work if our faces are covered. That is why an English magistrate ruled in an 'Anti Social Behaviour Order'-case that a well-known car thief in the north east of England was forbidden to wear a woolly hat, a baseball cap or a hood. The magistrate wanted to prevent this man from covering his face in front of the security cameras in public space.

The codes of the public space

In 2001 the city council of Tampa in Florida received the Big Brother award for 'Worst public official'. During the Super Bowl game between Baltimore and the New York Giants the faces of all 71.921 supporters were scanned, saved and later compared to those of criminals, terrorists and fraudsters in other databases. In the same year the city council used video surveillance to increase security in downtown Ybor City. This led not only to gestures as displayed middle fingers, some people also hid their faces with masks, hats and hoods. To understand these transformations of the public space we must understand the dynamic of a state of exception. A state of exception is not a strictly juridical category, in the legal sense as 'a state under siege' that is declared the moment the national or domestic security of a country is threatened. We must view this term in a much broader context. It coincides not only with the armament of the public space with technologies such as aggression detectors and Computerized Face Recognition. More specific, the reasons lie in the working of protocols in the public space.

Protocols are not a new phenomenon. Institutes such as the Army, the diplomatic corps and the healthcare have been using them for many years. They are used to guarantee correct behaviour within a heavily regulated system. In short, protocols can be regarded as strict codes that dictate how to behave. They fulfil the same role in the movie *Minority Report*. John Anderton is required to read out the names of the victim and the perpetrator to Pollard and James, the two independent 'witnesses'. Whilst assembling the digital images received from the 'pre-cogs' he must register in the computer all the possible combinations.

We can give this story a slightly different perspective by referring to the internal codes that are governing the public space of our cities. There are beautiful examples in cities as Chicago and Rotterdam. In the public space of Chicago it is forbidden to wander aimlessly in circles, to linger outside a public building, or to leave a package and to walk away from it. The most important protocol in Rotterdam is the Rotterdam-code. According to this code the inhabitants of Rotterdam are obliged to speak Dutch on the street. Both examples indicate an important metamorphosis of the life in the polis. At this

moment cameras in Chicago are used to enforce the above-mentioned protocols of public space. An unfailing security system will immediately alert the local police whenever anyone waits too long for a public building or wanders aimlessly. From this perspective the functioning of protocols and camera surveillance will gradually strengthen each other. Camera surveillance is used to enforce the protocols of the public space. If someone does not follow a protocol, then this will lead to his expulsion from public spaces. Therefore we must closely look at their structural similarities. Both terms – the first is a social, the second a technological term – complement each other.

Governance by protocols

Our culture of control is becoming a protocol society. Protocols are not impartial, quite the opposite. They are closely connected to a political and social production. They exert a political control on life by demanding that everyone in public space conforms to certain rules. Therefore the consequences of employing security techniques such as video surveillance are much more far-reaching than we first realized. One of the major innovations is the fact that the use of this technique of power entails an almost absolute control on public life. Protocols lead to normality that is expressed in invisible rules. In the public space protocols replace the law and the rule as a controlling instrument. By a reversed dynamic the relation between politics and life is then closed. So, if Agamben speaks about a state of exception, we can go along with him on the condition that we use the term very carefully: as a term for the politicisation of life in the public space by the coincidental forces of protocols and camera surveillance.

From this perspective, we can conclude that the control of life in the public space of the polis is exerted further and further without a clearly defined objective or limit. Protocols normalise. However a protocol has nothing to do with the law or the legislative body. It positions a new relation between life and politics. In the outlined security politics there is no law or norm that deals with the emergency anymore. One year after the introduction of the protocol in the police force of Rotterdam to take stronger action against the use of violence to police officers, more than hundred cases were successfully brought to court. So, one question becomes pressing: is the protocol the new place of sovereignty in our late modern society? After all, we don't have to understand much of the judicial system to see in this transformation an important change of scene. A law enforcement that aims at the prevention of crime and thereby uses informational technologies leads to a judicial twilight zone. A indeterminable zone is created in which fact and law can not be separated anymore. In this space the right to decide shifts from the judiciary to the

executive authorities. By excluding people for the violation of protocols, police and private guards are taking the place of the judiciary.

Our secret: the existence of Minority Reports

We must derive two new principles from Agamben's statement that the state of exception can be described as a suspension of the juridical order. These principles are not at odds with each other. They are closely related to what Mike Davis in *Ecology of Fear* (1999) calls 'the militarisation of public space': the reinforcement of public space with military technologies to monitor the behaviour of visitors. This has produced social despair and a spatial apartheid. The first principle means that a state of exception has a close relation to new security techniques that identify persons or groups as potential perpetrators. On the basis of a mechanical and linear view of their actions these persons are excluded from public space. The second principle means that their life will be normalised by specific protocols that govern the public space. At the point where these two principles come together, a state of exception is installed in the public space of the polis.

Instead of rejecting these principles, we must take up the challenge to find a way out of the deadlock of the state of exception. This gives us the opportunity to look one last time at the film *Minority Report*. The system of the three supernatural 'pre-cogs' predicting future crimes appeared to be flawless until the 'pre-cogs' identify the leading character John Anderton as a future perpetrator. In an attempt to clear his name he discovers that the three media do not always produce the same images. It seems there are Minority Reports that show an alternative future. The perspective in these reports is completely different from the Majority Reports. They show a different course of events. The 'pre-cog' Agatha tells John Anderton: "We have never seen the future. You have a choice." This points to a different variation of Agamben's theme of politics and life. The film gives the impression that we are dealing with an other view of our actions and a different idea of the future. Can a Minority Report also exist in a state of emergency? And what would happen if such a report did exist?

We can focus our attention on a striking Minority Report that runs through the work of Agamben. It confronts the assumption that persons on the basis of their past or actual behaviour have no other option than to commit a crime or act violently. Agamben speaks of a 'form-of-life'. In *Means without End* (2000) he defines this as 'a life that can never be separated from its form, a life in which it is never possible to isolate something such as naked life'. How can we understand this? With a 'form-of-life' he wants to present a new relation between possibility and actuality. Life is for Agamben pure potentiality. This potentiality is a capacity not to become reality. He reads Aristotle's suggestion

that 'all potentiality is im-potentiality of the same and with respect to the same.' He argues that this ought not be taken to mean simply that 'what is not impossible is possible'. Rather, he focuses on the suspension of im-potentiality in the passage to actuality. Therefore, a 'form-of-life' is a life over which sovereignty and right no longer have any hold. This opens the door to a different politics, a politics more in keeping with the ethics of a new community. However, what he means by this coming community is particularly unclear. He speaks in his most controversial work *Homo Sacer* (1998) of 'a new politics that we still have to invent'. Nevertheless, whilst describing the value of this 'other life' he breaks with both resemblance as a process and with identity as a principle. Interestingly, he resists the mechanical worldview and the related identity of contemporary security politics. It is this perspective that offers us a chance to think in positive terms about the social interactions in the public space.

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